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universal among the European branches, but unknown among the Eastern ones, indicates clearly a separation of races.

Thus, by abundant evidence derived from every department of physical knowledge, and by showing the absolute identity in many cases, and the close affinity in many more, which is found to exist in the names applied to natural objects by the different peoples, Pictet arrives at the indubitable conclusion that all the Indo-Germanic or Aryan races have sprung from one common origin. By applying the knowledge derived from these researches, he proves further, that in all probability the geographical position of their original native country coincided with the region included between the Hindo-Cooch, the Oxus and the Jaxartes, a conclusion which corresponds with any traditional evidence which we possess. He shows, moreover, that in the first migrations, they must have separated into two great bodies, the Eastern and Western; the first comprising the ancestors of the modern Indians and Persians, the other the progenitors of the Aryan peoples who now occupy Europe. The date of this separation, and of the first migration, is of course unknown to us, being long previous to the commencement of history; but Pictet gives it as his opinion (and promises to furnish the proofs in a future volume) that we must fix this epoch at least three thousand years before the Christian era.

Belfast.

H. McCORMAC, M.D.

COURT-MARTIAL HELD TWO CENTURIES AGO, AT PORTAFERRY, COUNTY DOWN.

THE manuscript of the following strange episode in the stern realities of the critical period of history wherein the scene is laid, was lately found among the papers of the Ormonde family, in the Castle of Kilkenny, and kindly furnished for publication in this Journal by the Rev. James Graves, of that town. The Marquis of Ormonde of that day was the well-known leader of the Royalists in Ireland; in high military command; and the person to whom the issue of life or death, arising from the finding of a court-martial, would be most likely to be referred by the Lords Justices, who are "the lordships" referred to in the closing paragraph of the document. This paper, now for the first time published, possesses a double interest: firstly, as presenting a singularly graphic, yet simple picture of the relation in which the officers and sergeants of the army then stood to each other in a social point of view, so different from the marked distinction of ranks in our own times; and secondly, as having a peculiar claim on the attention of the readers of this Journal throughout Ulster; from the occurrence happening at a time so historically important to this province; and in a corps par-

ticularly connected with the struggle so long and so gallantly maintained in Ulster, during the period of the Civil War and the commencement of the Commonwealth. The reader who is desirous for fuller information on these subjects will find them amply detailed in Reid's *History of the Presbyterian Church*, and in the *Montgomery MSS.* (published 1830).

It will suffice for an introduction to the document that follows to state, that Sir James Montgomery was the younger son of that Hugh Montgomery, who, acquiring by patent from James I. a considerable portion of the forfeited estates of Con O'Neill, of Castlereagh, brought over that large body of Scottish colonists whose descendants still occupy the northern parts of the County of Down; and, being created Viscount Montgomery of Ards, was the ancestor of the Earls of Mount Alexander, whose names appear so conspicuously in Irish affairs during the latter part of the seventeenth century. Sir James Montgomery appears to have possessed great sagacity and courage, and more than an ordinary share of political honesty—a quality rarely exhibited in those days. He was member of parliament for the County of Down; and as such, formed one of a deputation to the King in 1640, to remonstrate against the arbitrary government of Strafford. On the breaking out of the great Irish Rebellion in the next year, he was one of many Protestant noblemen and gentlemen who received a commission for each to raise a regiment of one thousand foot and one troop of horse, to resist the forces of the native Irish. The manner in which he raised this regiment will be best told in the words of the *Montgomery MSS.*:—"As for gentlemen of the better sort, who had lands or estates in the Ardes, he gave them commissions, charging them to raise a quota of their tenants to serve in their companys; and he proceeded accordingly with the subalterns, whom he choosed out of fee-farmers or other substantial men; and was very ready to make provision for, and to receive all those who had fled from their burn'd habitations: thus (as it were in an instant), he raised his regiment and troops, placing some officers (who had served beyond seas) among them. Such was Lieutenant-Colonel Cochran, Major Keith, and some like Lieutenants and serjants." The regiment was scarcely raised until it was actively engaged in suppressing the revolt of the native Irish in Lecale and Iveagh, who were assisted by the more disciplined forces of Phelim O'Neill. On the 11th February, 1642, the Antrim rebels, commanded by Alaster MacDonnell (afterwards celebrated in Scottish and English history as Colkitto), had defeated a large body of Protestant refugees at Ballymoney, and slain six hundred of them; thus leaving the whole of Antrim and Down open to the invasion of Con Oge O'Neill, who was advancing with a large force from Tyrone. Sir James Montgomery's regiment was thereupon quartered in Dufferin and Castlereagh, to defend that part of Down; and it was then that the event happened at Portaferry detailed in the following document. From its proximity to Sir James's own estate; from the fact of its proprietor, Savage, being brother-in-law to Sir James, and himself Captain of a troop of horse in Viscount Montgomery's regiment; and from its situation on the sea-coast, where supplies could find ready access; Portaferry would appear to have

been most eligible head-quarters for Sir James's regiment; and if the principal officers were absent at more distant stations, it is very probable that discipline would be considerably relaxed at head-quarters, and that such drunken brawls as that which caused the court-martial might readily occur.

From the extract given above, from the Montgomery MSS., it may be inferred that many of the officers and sergeants were of those hardy bands of mercenaries, whose characters are so well personified in the *Dugald Dalgetty* of Sir Walter Scott. It is now a well-known fact that the character of Dalgetty was drawn by Scott, from the original presented by Sir James Turner; * who, at the very time of this court-martial, was coming to Ireland as Lieutenant General of the Scottish forces, under Monro, which landed at Carrickfergus in April, 1642, and were immediately joined by several of the Irish regiments lately raised; and amongst them, Sir James Montgomery's. For the next six years the Irish regiments formed part of the forces under Monro's command, and subsequently under Monk's; until, suspecting the complicity of the latter with Cromwell's designs, they withdrew from under his command, and maintained a sort of armed neutrality until the advent of Cromwell in Ireland, in June 1649, when the Presbyterian forces abandoned Ireland for Scotland; and Sir James Montgomery, having taken part in the battle of Dunbar, where Cromwell gained "a crowning mercy," and having attempted to make his escape to Holland, was captured at sea and killed; as fully detailed in the Montgomery MSS.

To return to head-quarters at Portaferry:—The names of the officers and sergeants given in the document, would show that the Scottish element principally abounded: some of them can be traced through their subsequent career. Cochran is probably the Colonel Cochran mentioned by Turner, who, being in command of one of the regiments that marched over the

* *Sir James Turner*.—The amusing autobiography of this soldier of fortune was printed in 1829 from the original MSS. in the Advocate's Library, Edinburgh; and from it Scott has drawn many of the traits of the immortal Dalgetty. The following extracts will show by what a convenient code of morals he squared his military duty with his conscience; and in doing so, he only followed the example of greater names of that century, from Monk to Marlboro':—

"I had swallowed without chewing, in Germanie, a very dangerous maxime which militarie men there too much follow; which was, that so we serve our master honestlie, it is no matter what master we serve." . . . "All this while I did not take the national Covenant; not because I refused to doe it, for I wold have made no bones to take, sueare, and signe it, and observe it too; for I had then a principle, having not yet studied a better one, that I wronged not my conscience in doeing anything I was commanded to doe by these whom I served." Being

likely, however, to fall under suspicion as a "malignant" if he did not take the Covenant, he complied with public opinion in the following manner:—"I made a fashion (for indeed it was no better) to take the Covenant, that under the pretence of the Covenant we might ruine the Covenanters; a thing (though too much practis'd in a corrupt worlde) yet in itself dishonest and disavouable; for it is certaine that no evill suld be done that good may come of it."—If such were the ethics of the officers of Sir James Montgomery's regiment—a regiment raised by a moderate Royalist, equally opposed to the anti-monarchical tendencies of the English and ultra-Royalist zeal of the Irish—it will account for the eagerness with which they sought to have their regiment incorporated with Monro's Scottish forces (in November, 1643); but which offer was not so readily received by that general, or acceded to by their own commander.

Border, under Lesley, in 1640, was suspected of Royalism, and cashiered by the Scottish Parliament. This would be rather a recommendation to the good opinion of the moderate Royalist, Sir James Montgomery. Cochran's name, as well as Keith's (afterwards Lieut.-Colonel), appears at the several councils of war held in at Antrim, in 1645; at Lisburn, in 1647; and at Newtownards, in 1649. In some of these, also, appear the names of Colin Maxwell, J. Austin (or Augustin), James Hamilton, and also a Fergus Kenedy, who may be the Lieutenant Kenedy named as present at the court-martial, but whose name is not subscribed. It is a curious circumstance that so many names appear amongst the signatures which are not specified in the heading, where there are, on the other hand, many names (especially those of sergeants) whose signatures do not appear at the end. The only plausible solution of these anomalies is, that it was only those who could write well that were called on to subscribe, and that many were present at the hearing of the case whose names were not specified in the opening of the court. The signatures are all pretty good specimens of writing; several indulging in the fanciful interlacing of the initial of the Christian name with the first letter of the surname, which we see so prevalent in the monogram carvings of that age, and which is again coming into fashion. It is probable that the greater number of the officers and sergeants present were of those described by Scott as—

“Adventurers they from far, who roved
To live by battle, which they loved.
All brave in arms, well train'd to wield
The heavy halbert, brand, and shield :”

and who, although perhaps living a dissipated life when not on duty, would the more readily be inclined to avenge the consequences of dissipation on the comparatively innocent, but less important, delinquent; and accordingly, and contrary to all modern ideas of justice, condemned poor Sergeant Kyle to be shot to death; a sentence which it is to be hoped the Marquis of Ormonde at once reversed. It is certain, from what we know of the constitution of armies in the 16th and 17th centuries, that, being generally the feudal followers of the crown, or of some great noble, there was not such a distinction of ranks as now pervades the English military system; but one more analogous to that which we know exists in many of the Continental armies of the present day. Men of gentle and even of noble blood entered the service in the lowest grade: and we must conclude that in those days when social distinctions were often merged in the bowl, the lieutenant and sergeant may have quarrelled in their cups, and challenged each other on a perfect equality as relates to their feelings as “gentlemen;” and poor Sergeant Kyle, when he found Lieutenant Baird determined on a quarrel, appears to have considered himself quite the equal of the Lieutenant in the privileges of the *duello*, having once got over the qualms arising from his inferior position in military parlance. Yet it is

plain he either relented towards his antagonist (perhaps being conscious that himself, being the more sober, had the other at his mercy), or that he foresaw the consequence of a fight *d'outrance*, and so wished to avoid the double risk of killing a defenceless adversary, and suffering military execution for so doing.

G. S.

“ A Courte of Warre houlden by the chiefe officers of S^r James Mountgomry, knight, his regiment, at Porteferry, the second day of March, 1642.

Att wh^h were present—

The Leuetanant Collonell.

The Major.

Captaine Samuell Mountgomry.

Captaine Wardlaw.

Captaine Houston.

Captaine Maxwell.

Captaine Wauchop.

Leuetanant Kenedy.

Leuetanant Will.

Leuetanant M^cAndrew.

Leuetanant Girvan.

Leuetanant Hamilton.

Ensigne Crawford.

Ensigne Hugh Mountgomry.

Ensigne Biggar.

Ensigne Maxwell.

Ensigne William Mountgomry.

Sergeants present :

Sergeant Corrie, Sergeant Broadfoot, Sergeant Crawford, Sergeant Edgar, another Sergeant Edgar, Sergeant Kernechan, Sergeant Ffisher, Sergeant Fflouck, Sergeant Ronald, Sergeant Logan, Sergeant M^cClannan.

In presence of whom, one Sergeant Walter Kyle was produced, and accused for killing of one Leuetanant William Baird, both of them being of the sayd regiment; and the sayd Sergeant Kyle answered for himselfe to the effect following:—

That there had alwayes been kindness betweene Leuetanant Baird and him; That the sayd Leuetanant, a litle before night on Wednesday, the 22th of Februarie, as they were going out of the towne of Portefery to their own quarters in the country, invited him, the sayd sergeant, to take a drink in the howse of James Houston by the way. After theire being there a certaine space, came one William Hutton, an acquaintance of the sayd sergeant, who drinking in another roome, the sayd sergeant went to that roome where the sayd Hutton was and the sayd sergeant, where there were occasioned some words of difference betweene the sayd Leuetanant who came in after, and him, the sayd sergeant, and soe that the Leuetanant would command the sergeant, who was not of his company, to drink to whome hee should appoint. The sergeant answered that hee would obey him in the field upon service, but noewhere else. Hee saith that the Leuetanant demanded him to fight with him, but that hee, the sayd sergeant, denyed, because they were not of equall place. That the

Leutenant thereupon disclaimed the places of Leutenant or Ensigne, and called himselfe a Sergeant to cause the sayd Sergeant Kyle to answer him; and the sayd Sergeant Kyle being demanded if hee made any challenge of combat unto the sayd Leutenant by offering a blow or in any other way, answereth hee did not. And further saith, that the sayd Leutenant Baird called him out and would needs have him fight with him, it being moone-light; and as they fought together a while, people followed and parted them; that in ende hee, the sayd sergeant, fledd away and the Leutenant overtook him hard by a ditch, and the people crying to him "fey sergeant, either leape the ditch or turne and defend thyselfe," upon which the sayd sergeant turned on a suddayne, held out his sword to hold off the Leutenant, who rann upon his sayd sword and wounded himselfe in the head.

Upon which the Court called and examined the witnesses undermentioned:—

William Hutton sworne and examined saith—That the examined and James McCullagh, going to drink together a little after night-falling, on Wednesday the twentie-two of February, the sayd Leutenant and Sergeant rann into the roome where they were drinking, and the Sergeant being first there, offered the chair hee sate in to the Leutenant, but the Leutenant refused it, and sate upon the end of a chest. Afterward the Leutenant and Sergeant fell a ieering one another, upon wch the Sergeant tould him that if hee would trey him hee would feind him a man, or if hee had ought to say to him. Also Sergeant Kyle threw down his glove, saying there is my glove, Leutenant, unto which the Leutenant sayd nothing. Afterward divers ill words were betweene them, and the Leutenant threating him, the said sergeant, the sergeant tould him that hee would defend himselfe and take no disgrace at his hands, but that hee was not his equall hee being his inferior in place, hee being a Leutenant and the sayd Kyle a Sergeant. Afterward the sergeant threw down his glove the second tyme, and the Leutenant not having a glove demanded James McCullagh his glove to throw to the sergeant, who would not give him his glove; upon that the Leutenant held upp his thumbe, licking on it with his tongue and saying, "there is my parole for it." ^b Afterward Sergeant

^b *Licking on his thumbe, and saying, there is my parole for it.*—This very ancient form of giving a pledge or promise has nearly disappeared from amongst our customs: the shadow of it may still, however, be seen in the mode in which dealings and bargains are conducted in fairs and markets, by the purchaser spitting on a piece of money, laying it in the hand of the seller, and closing his own hand on it. It is still a common saying in the parts of Ulster where the inhabitants are of Scotch descent, when two parties agree in a bargain, or have a community of opinion: "We may lick thooms upon that."

The custom remained as a legal form of bargain in Scotland to a late period. Erskine, in his *Institutes*, says it was "a symbol anciently used in proof that a

sale was perfected; which continues to this day in bargains of lesser importance among the lower rank of the people—the parties licking and joining of thumbs; and decrees are yet extant, sustaining sales upon '*summonses of thumb licking*,' upon this medium, 'That the parties had licked thumbs at finishing the bargain.'"

Jamieson, in his *Scottish Dictionary*, remarks, "This custom, though now apparently credulous and childish, bears indubitable marks of great antiquity. Tacitus, in his *Annals* (Lib. xii.), states that it existed amongst the Iberians; and Ihre alludes to it as a custom amongst the Goths. I am well assured by a gentleman who has long resided in India, that he has observed the Moors [by which, it is presumed, Jamieson

Kyle went to the Leuetanant's care and asked him "when?" The Leuetanant answered "presently." Upon that Sergeant Kyle went out and the Leuetanant followed with his sword drawn under his arme, and being a space distant from the house said, "where is the villain now?" "Here I am for you," sayd Kyle, and soe strooke fiercely one at another, that either the sword fell out of the Leuetanant's hand or was stricken out, and these that gathered together about parted them, and held them awhile asunder; and this examined held Sergeant Kyle but the others letting the Leuetanant to slipe out of grippe came upon the sergeant, and then this examined fearing the stroke should fall upon himselfe turned the sergeant loose. After that they went about twice or thrice and soe were parted, and then Sergeant Kyle fledd untill he came to a ditch neer by, and the Leuetanant following, some of the people sayd "fye! turn thee Kyle or be killed," upon wch the sayd sergeant turned on a suddaine and held out his sword, and the Leuetanant rann upon the sayd sword, was wounded and dyed within a short tyme of the same: And further saith not.

James McCullagh, sworne and examined, saith to all purposes material, and agreeth with the former deponent untill the tyme that the sword fell out of the Leuetanant's hand, after which hee knoweth not any thing.

John Cambell, sworne and examined, saith that when the said Leuetanant and Sergeant were drinking with William Hutton and James McCullagh, the Leuetanant offered to fling the drink in the sergeant's fface; upon which this examinat left them and went about his own buissines, and returning that way thereafter, found them the sayd Leuetanant and Sergeant fighting, and saw the sword fall out of the Leuetanant's hand, and healded to hould the sayd Leuetanant for a tyme; after that the Leuetanant followed the Sergeant, and they went once or twice about in fight. Afterwards Sergeant Kyle fledd unto a ditch, and some crying "Kyle, either leap the ditch or turne and defend theself;" upon which the sayd Kyle turned and held out his sword, and the sayd Leuetanant rune upon it, and wounded himselfe, of which hee dyed; And further saith not.

THE SENTENCE OF THE SAYD COURT OF WARRE.

It is agreed and concluded by all the officers afforenamed in the sayd Court of Warre by one consent, that the sayd Sergeant William Kyle is guiltie of killing of the sayd Leuetanant Baird; and soe, according to the law of armies and articles of warr, the sayd Sergeant Kyle is found guiltie of death by all the aforenamed officers, and is to be shott att a poste till death; soe wee having noe

means the Mohammedans either of Arab or Mongolian descent, as distinguished from the Hindoos] when concluding a bargain, do it in the very same manner as the vulgar in Scotland, by *licking their thumbs*." Something of the same kind prevailed amongst the Romans; and the word *polliceri*—

to promise, to engage—has by many been considered to be derived from *pollex*, *icis*, the thumb, instead of from the preposition *per*, and *liceri*, to be allowed or granted. [See also, on this subject, *Ulster Journal of Archaeology*, vol. vi., p. 189 and 279.]

generall person here, wee have sent here this censure of said Court of Warr unto yor Lopp., desiring to know yor Lopp's pleasure herein whether hee shal be put to death or not.

As witness our hands, the second day of March, 1642.

Brye [Bryce] Crawford.

H. Montgomerie.

William Montgomerie.

John Bigart.

John Maxwell.

John Bigam [*query* Bigham?].

Ninian Crawford.

James Curie.

Giles Flock.

John Ronnald.

H. Cochran.

George Keith.

S. Montgomeri.

Archbald Wardlaw.

Patrick Houstonn.

Collin Maxwell.

Collin Wachub.

John Will.

John Crachtonn.

James Hamiltonn.

J. Austein.

J. Garven.